ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

ITRA 265 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE(S)

1. For orders on CMA No.2509/2026.
2. For orders on CMA No.2510/2026.
3. For orders on office objection No.3.
4. For orders on CMA No.2511/2026.
5. For hearing of main case.
6. For orders on CMA No.2512/2026.

04.11.2026

Mr. Shahanshah Hasnain, advocate for the applicant.

1. Urgency granted.

2. This is an application seeking for delay in filing of the present reference to be condoned. Per learned counsel the delay is of over 72 days and seeks that same may be condoned, inter alia, in view of the chronological reasoning provided in the memorandum of application.

It is imperative to denote on the very onset that affidavit is devoid of a single ground in support of the application Be that as it may, the reasoning is with respect to medical exigency of the Chief Executive Officer of the applicant. The applicant is represented to be a private limited company having perpetual succession and any medical infirmity of any office bearer could not be justified to condone the present delay. Furthermore, the said timeline clearly states that a rectification application with respect to the same order was in fact preferred by the applicant in August 2026. Learned counsel was queried as to if the applicant company was competent to file a rectification application then why could reference not be filed. The timeline also demonstrates that prior to filing of this reference, a constitutional petition was filed and the same was also dismissed. Learned counsel remains unable to articulate as to why the reference could not be preferred in time when company was able and willing to prefer multiple challenges to the impugned order before different forums.

Notwithstanding the foregoing, learned counsel states that the issue of limitation is a technicality and the same ought not to be lead to the applicant being non-suited and the applicant ought to be heard on merit.

It is the considered opinion of the Court that the prescriptions of limitation are not mere technicalities and disregard thereof would render entire law of limitation otiose[1]. The Superior Courts have consistently maintained that it is incumbent upon the Courts to first determine whether the proceedings filed there before were within time and the Courts are mandated to conduct such an exercise regardless of whether or not an objection has been taken in such regard[2]. The Superior Courts have held that proceedings barred by even a day could be dismissed[3]; once time

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[1] *Mehmood Khan Mahar vs. Qamar Hussain Puri & Others* reported as *2019 MLD 249*.
[2] *Awan Apparels (Private) Limited & Others vs. United Bank Limited & Others* reported as *2004 CLD 732.*
[3] *2001 PLC 272*; *2001 PLC 143*; *2001 PLC 156*; *2020 PLC 82*.

begins to run, it runs continuously[4]; a bar of limitation creates vested rights in favour of the other party[5]; if a matter was time barred then it is to be dismissed without touching upon merits[6]; and once limitation has lapsed the door of adjudication is closed irrespective of pleas of hardship, injustice or ignorance[7]. It has been maintained by the honorable Supreme Court[8] that each day of delay had to be explained in an application seeking condoning of delay and that in the absence of such an explanation the said application was liable to be dismissed. It is pertinent to observe that the preponderant bar of limitation could not be dispelled by the applicant.

It is settled law that question of limitation has to be addressed by the court at the very onset, each day of delay has to be justified by the applicant. Learned counsel has remained unable to do so. Therefore, CMA 2510/2026 is dismissed and as a consequence thereof reference application is dismissed as being time barred.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Appellate Tribunal, as required per section 133(8) of the Income Tax Ordinance, 2001.

Judge

Judge

Khuhro/PS

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[4] *Shafaatullah Qureshi vs. Pakistan* reported as *PLD 2001 SC 142*; *Khizar Hayat vs. Pakistan Railways* reported as *1993 PLC 106*.
[5] *Dr. Anwar Ali Sahito vs. Pakistan* reported as *2002 PLC CS 526*; *DPO vs. Punjab Labour Tribunal* reported as *NLR 1987 Labour 212*.
[6] *Muhammad Tufail Danish vs. Deputy Director FIA* reported as *1991 SCMR 1841*; *Mirza Muhammad Saeed vs. Shahabudin* reported as *PLD 1983 SC 385*; *Ch Muhammad Sharif vs. Muhammad Ali Khan* reported as *1975 SCMR 259*.
[7] *WAPDA vs. Aurangzeb* reported as *1988 SCMR 1354*.
[8] *Lt. Col. Nasir Malik vs. ADJ Lahore & Others* reported as *2016 SCMR 1821*; *Qamar Jahan vs. United Liner Agencies* reported as *2004 PLC 155*.